Minister's Advisory Board on Independent Schools

Final Report to the Minister of Education

Executive Summary

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Executive Summary

Saskatchewan Education

November 1990

Letter of Transmittal

October 15, 1990

The Honourable Ray Meiklejohn
Minister of Education
Province of Saskatchewan

Dear Mr. Meiklejohn,

As a result of nearly a year's deliberations, the Advisory Board is very pleased to submit its Final Report to you.

Saskatchewan has long had a national reputation for the development of educational policy through the collaborative process. As a further example of this collaborative and consultative process, the work of this Advisory Board represents and reflects the interests of the broad range of partners in Saskatchewan education represented on the Advisory Board.

Our recommendations attempt to provide a solution to the many complex issues associated with the operation of independent schools in Saskatchewan in the context of existing provincial legislation and regulations as well as the new Canadian constitutional and legal framework, epitomized by *The Charter of Rights and Freedoms*, 1982. Specifically, the Advisory Board endeavoured to recommend regulations, policies and procedures that would appropriately balance the interests of the children enroled in independent schools, their parents, and the public at large.

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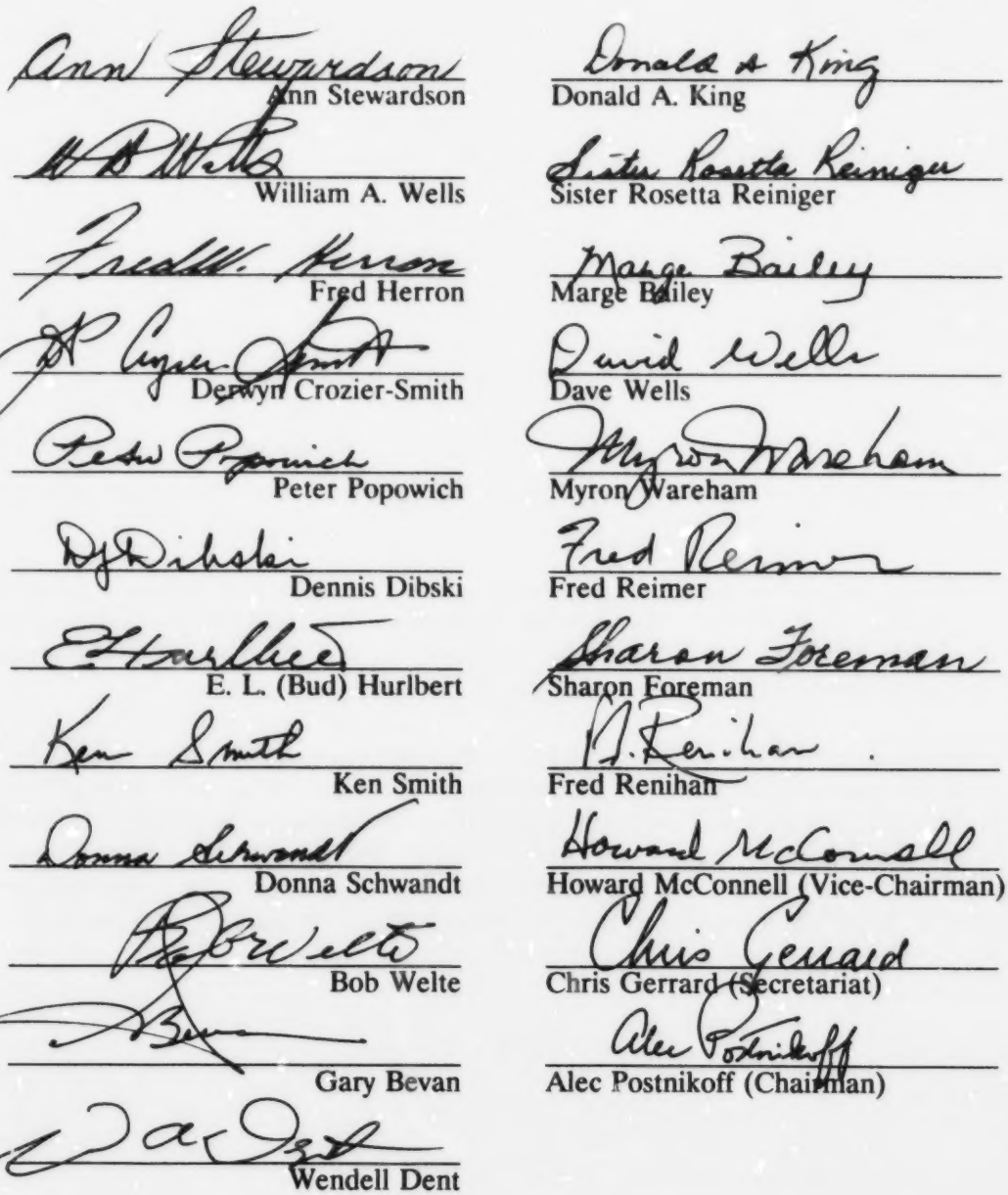
Respectfully submitted,



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Executive Summary

Background

Private schools have always existed in Saskatchewan, and have been established at different times for different reasons. For example, the eight historical high schools[1] were established in the early 1900s as "schools of necessity" at a time when public high schools were not always available, not as a complaint or in competition to the public schools, but as a valuable educational alternative, providing quality education with a spiritual dimension. These schools are now

> permanent fixtures in Saskatchewan. Their traditions and place in the education practice of this province are deeply rooted. They are well-respected within education circles and it is not uncommon for some of these schools to attract significant numbers of out-of-province students to their campuses.[2]

The Seventh-day Adventists started their first school in Saskatchewan in 1924 as a "school of diversity". While they supported the public education philosophy of providing the very best education possible for the children of Saskatchewan, they nonetheless felt, in the context of their unique beliefs, that their children's needs could not be met within the public education system. They desired a spiritual foundation, not just a spiritual dimension, to their children's entire educational experience.

Then between 1975 and 1985, as part of a nation-wide phenomenon, some 30 new private schools, mostly evangelical Christian schools, were started in Saskatchewan as "schools of protest".[3] The parents who started these schools were not looking for help with religious instruction. Rather, some of these parents became frustrated in dealing with more and more influences in the schools that, in their opinion, worked against what they were trying to do in the home.

This latest generation of religiously-based private schools were not, of course, the first "schools of protest" in Canada. While the public educational system was being established in the United Province of Canada after 1841, the Roman Catholic separate schools in Ontario and the Protestant dissentient schools in Quebec were the first schools of protest, which protests gave rise to major political issues and compromises, including section 93 of *The Constitution Act*, 1867. As a result, in Ontario, Quebec, Alberta, Saskatchewan, and Newfoundland, Roman Catholic schools are "public"

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[1] Athol Murray College of Notre Dame, Caronport High School, College Mathieu, Luther College, Lutheran Collegiate Bible Institute, Rivier Academy, Rosthern Junior College, and St. Angela's Academy. The Saskatchewan Association of Private High Schools, which comprises these schools, proposed this term, the "historical high schools", to describe their schools, which description was adopted by the Board.

[2] Gordon Dirks, *Review of Private Schooling in Saskatchewan* (September 1987), p. 22.

[3] The three phrases, "schools of necessity", "schools of diversity", and "schools of protest", come from Robert Stamp, "A History of Private Schools in Ontario", in Bernard J. Shapiro, *The Report of the Commission on Private Schools in Ontario* (October 1985), pp. 193-207.

schools, while in other provinces, they remain private schools.

Finally, a few "alternative" private schools were also established in Saskatchewan in the 1970s, which provided an education for disabled or disadvantaged students with special emotional or socio-psychological problems who, consequently, were "at risk" of not being able to achieve their potential within regular elementary and secondary programs.[4]

While some private schools have always existed in Saskatchewan, regulations, policies, and procedures that clearly define the legal status of all private schools have not been fully developed. In particular, the latest generation of religiously-based private schools have existed, for all intents and purposes, in a legal vacuum. Among other things, it has been unclear which public authorities were responsible for supervising these new schools.

While the Alberta case, *Jones* v. *The Queen*,[5] which was expected to shed light on the powers and the responsibilities of provincial governments with respect to the operation of private schools, was proceeding to the Supreme Court of Canada, the Government of Saskatchewan, like other provincial governments, delayed its response to this latest generation of private schools.

Then on March 13, 1987, after the Supreme Court had rendered its decision in the *Jones* case in November 1986, the provincial government announced the appointment of Gordon Dirks to conduct a study on private schooling in Saskatchewan, examining, among other things, the "quality of education in private schools; funding for private schools; taxation of private school property; home schooling; attendance requirements; parents' rights; and current and projected trends respecting private schools."

The Minister of Education released the Dirks' Report in December 1987 and responded to the Report on June 27, 1988, announcing, among other things, that the Government would establish a new system for the regulation and registration of private schools through the provincial Department of Education, that would resolve the legal status of private schools; clarify the position of their pupils in terms of compulsory attendance; and ensure that private schools maintained a high quality of education.

The Minister of Education proceeded to implement these new policies by announcing (on January 23, 1989) his intention to establish an Advisory Board to help develop regulations for private schools in Saskatchewan; by establishing an Independent Schools Branch in the Department of Education; by appointing Chris Gerrard (who has also served as the Secretariat to the Advisory Board) as the first Director of this Branch, effective July 1, 1989; and by passing amendments to *The Education Act* in August 1989, which referred to private schools as independent schools, in order to provide a legislative framework for whatever regulations, policies, and procedures the Board would recommend.

In consultation with the major partners in Saskatchewan education, the Minister established the representative structure of the Advisory Board: seven representatives from the public education

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[4] Cornwall Alternative School in Regina, Radius Tutoring in Saskatoon, and Ranch Ehrlo in Pilot Butte.

[5] (1987) 31 Dominion Law Reports (4th) 569.

system; seven representing independent schools; five representing the post-secondary/employment sector; a chairperson; two representatives of the Department of Education; and a legal advisor. Each of the organizations represented on the Board were invited to name their own representatives to the Board. Alec Postnikoff, former long-time Director of Education for Saskatoon (West) School Division, agreed to serve as Chairperson.[6]

Guiding Principles

First, in various news releases and in his letter of invitation to the organizations represented on the Board, the Minister established nine guiding principles which constituted the policy framework for the Board:

- The Government of Saskatchewan has a compelling interest in the education of all Saskatchewan children, of which the primary vehicle is the public education system in its two dimensions, the public schools and the separate schools.

- From either an historical, legal, or practical perspective, independent schools have the right to exist in Saskatchewan.

- The Government has the interest and the responsibility to put in place a legislative and regulatory framework for the operation of independent schools in Saskatchewan.

- In order to operate legitimately in Saskatchewan, independent schools will be required only to be registered and not licensed.

- The costs of operating independent schools will continue to rest with parents who choose this form of education for their children. There will be no new operating grants for independent schools beyond those currently provided to the historical high schools.

- By their very nature, independent schools are similar to public schools in some respects and different in others. Parents enrol their children in independent schools in order to achieve objectives which may not or can not be satisfied within the public education system.

- Independent schools must provide a quality of education comparable to that of public schools.

- Independent schools must abide by generally accepted teaching principles with respect to academic content, teaching pedagogy, teacher training, and child development.

- Independent schools must not promote values which conflict with the rights, freedoms, and moral principles upon which our society is based.

Second, the Board considered the Canadian constitutional and legal framework within which independent schools exist, since, in contrast to Saskatchewan's public and separate schools, as well as the soon-to-be-established fransaskois schools, independent schools are not "public authorities",

[6] See Table 1 for the complete membership of the Board.

but "legal persons".[7] Neither their legal right to exist nor their authority comes from *The Education Act*, but from the common law, now reinforced by *The Charter of Rights and Freedoms*, 1982, and from the denomination, church, or society that created them. From *The Charter*, from case law, from international declarations, and from *The Saskatchewan Human Rights Code*, the Board derived the following principles:

- Subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society, parents have the right and the responsibility to provide for the education of their children in accordance with their religious convictions.
- Every person has the right to a formal education.
- The government has the authority to exempt children of compulsory school age from attendance at a public school.
- The relationship between the Department of Education and independent schools should recognize freedom of conscience and religion in education and should be associated with fundamental justice.
- Provincial education policy should be consistent with the preservation and enhancement of the multicultural heritage of Canadians.
- Independent schools are not public authorities.
- The ability of each citizen to make free and informed decisions is the absolute prerequisite for the legitimacy, acceptability, and efficacy of our system of self-government.
- In the case of an alleged failure of parents or guardians to provide adequate education for their children, the burden of proof resides with the government.
- Independent schools have the right to restrict access to members of their own group.
- Independent schools have the right to restrict the employment of teachers to individuals who share the faith and practice of the organization that owns or operates the independent school.

Third, in the course of its deliberations, the Board developed an number of operational principles surrounding its decisions, which, taken together, constituted its operational framework:

- As far as possible, the Board will work on a consensus basis.
- The Board will not be concerned if any of its recommendations require an amendment to provincial legislation. The Department of Justice will ultimately be responsible for determining which items must be in statute, which can go in regulation, and which can be handled simply as policy statements.

[7] This is acknowledged in the definition of an independent school in *The Education Act*, clause 2(s.1).

- As far as possible, the Board will recommend regulations, policies, and procedures governing the operation of independent schools that are consistent with and conform to existing Saskatchewan educational practices and traditions.

- While the Board has examined legislation and regulations pertaining to independent schools in other provinces insofar as these reflect a common constitutional and legal framework in Canada, the Board's recommendations will represent a made-in-Saskatchewan regime for the operation of independent schools in Saskatchewan.

- The Board recognizes the unique position of the historical high schools in the Saskatchewan education scene. Its recommendations will not alter or diminish the existing relationships that these schools have already developed with other partners in Saskatchewan education.

- The Board recognizes that most, although not all independent schools are religiously-based. In establishing a legal framework for independent schools in Saskatchewan, the Government is not interested in regulating religious institutions as such, but in regulating education.

- The Board will attempt to make recommendations applicable not only to the existing independent schools but also to those that may be established hereafter.

- The Board will attempt to facilitate the effective operation of independent schools. Its recommendations will not be intended to have a negative impact on the ability of legitimate independent schools to operate.

- The Board will attempt to promote a harmonious relationship between independent schools and other partners in Saskatchewan education.

- The Board will direct its recommendations primarily to the Minister of Education. It acknowledges that recommendations to other partners in Saskatchewan education will carry less weight.

Process

The Advisory Board met once a month for ten months, from October 1989 to July 1990, inclusive, except for May 1990, when it met twice. At its first meeting, the Board established an Executive Committee to oversee the work of the Board and to handle administrative matters, and agreed to establish three technical committees -- a teacher education, certification, and standards committee; a curriculum, instruction, and evaluation committee; and a student/teacher needs committee -- in order to conduct detailed work on these particular issues. All committees were composed of a balanced matrix of representatives similar to the Board.

To help the Board establish the precise mandates of these committees and to assist the committees with their work, the Board first requested information on curricula presently being used in Saskatchewan's independent schools; on the characteristics of independent schools, including who attends independent schools; and on legislation and regulations pertaining to independent schools in other provinces.

Then, at the second and third meetings of the Board, each of the organizations represented on the Board made a presentation to the full Board with respect to their organization's goals and philosophy; their membership and mandate; how they perceived their role in Saskatchewan education; and their views on public and independent schools.

Third, the Board heard additional presentations on provincial curriculum policy; curriculum issues from an independent school perspective; teacher certification in Saskatchewan; teacher issues from an independent school perspective; student needs and services provided for special needs students in Saskatchewan; and school facilities in Saskatchewan.

Basically, the committee process worked well. The three committees were able to reach a consensus on most issues. The Board approved most recommendations with some modifications, but sent others back to committee for further consideration. The Board itself considered and approved recommendations with respect to a number of "other issues" that did not form part of the mandate of the three technical committees.

Recommendations

The Minister's Advisory Board on Independent Schools is making one recommendation that is foundational to and pervades virtually all other recommendations, namely:

> *That the Minister of Education establish four categories of independent schools in Saskatchewan called registered independent schools, accredited independent schools, historical high schools, and alternative independent schools.*

This recommendation arises from the guiding principles discussed above, from the nature of independent schools, and from past practice with respect to independent schools in Saskatchewan. The Board was also cognizant that other provinces have established different categories of independent schools, with a general distinction between registered and accredited schools.

Under British common law, public boards of education, being "public authorities", can typically only do those things which *The Education Act* authorizes them to do. By contrast, independent schools, being "legal persons", can do anything except what they are restricted from doing. As such, independent schools are generally subject to three types of restrictions:

- In the first instance, by laws that restrict the rights of individuals or corporations;
- In the second instance, by the Act under which they are incorporated, their own incorporating documents, and their own by-laws; and
- In the third instance, which was the most important for the Board's considerations, by explicit provisions in legislation relating to their activities.

Typically, restrictions of the third type arise at the point where the activities of legal persons come into contact with matters of public concern. In the case of independent schools, this includes the compelling interest of the state in the education of children, which interest is manifested in applicable legislative and regulatory provisions such as recognition of a school for purposes of

compulsory attendance, exemption from municipal property taxation, recognition of a school's educational program for purposes of secondary level standing, and public funding.

One can conceive these four provisions as an increasing level of "benefits" conferred on independent schools by *The Education Act* and the accompanying regulations in exchange for an increasing level of "requirements".

In Saskatchewan, the recent amendments to *The Education Act*, clauses 2(ee.1) and 156(a.1), recognize a "registered" independent school as providing its pupils a legitimate exemption from compulsory attendance at a public or separate school. Second, the existing *Education Regulations*, section 29, specify criteria for "accreditation" of an independent school, that is, an additional departmental sanction of a school's program, conferring among other things, the eligibility of its pupils for secondary level standing. Third, Saskatchewan's historical high schools are not only accredited, but also funded in accordance with criteria in *The Education Regulations*, section 71. The various criteria are cumulative. Implicit in both sections 29 and 71 is the presumption that not all registered independent schools will be eligible for accreditation, and not all accredited high schools will be eligible for funding.

This makes three categories of schools: registered independent schools, accredited independent schools, and the historical high schools. Finally, the Board recognized that the three alternative independent schools were presently funded under *The Education Regulations*, clauses 61(b) and 61(o). Constitutionally, while the government does not appear to be required to fund independent schools, if it does fund some schools in accordance with certain criteria, then it must fund all schools that meet these same criteria equally. Since the Government of Saskatchewan presently funds the historical high schools and the alternative independent schools in accordance with different criteria, the Government must create two different categories of funded schools.

Having arrived at this foundational recommendation, much of the remainder of the Board's deliberations dealt with comprehensive criteria for these four categories of independent schools. As such, the rest of the Board's recommendations, which are listed at the end of this executive summary, fall into five groups:

- Requirements and duties of independent schools;
- Opportunities and powers of independent schools;
- Responsibilities of the Department of Education;
- The collaborative process; and
- Recommendations to other organizations represented on the Advisory Board.

The major recommendations relating to the four categories of schools are also summarized in Table 2, with the recommendation number appearing in square brackets after each item. From the point of view of independent schools, the Board's recommendations involve new requirements and duties, but they also provide new opportunities. From the point of view of the Department, the Board's recommendations involve new responsibilities.

The Board recommends that each independent school must be owned or operated by a body corporate, incorporated in the province of Saskatchewan. Each independent school board, which exercises powers similar to a public board of education, must comprise a minimum of three adults, representing three different family units, appropriately selected by the organization that owns or

operates the independent school. Each independent school must also have enroled pupils between the ages of 5 and 21 from a minimum of two different family units.

These recommendations provide the provincial government with a number of safeguards, including a direct record of ownership, separate from that of Revenue Canada, as well as requiring, under Saskatchewan's *Non-Profit Corporations Act*, an annual financial audit. The corporate structure of an independent school, with a minimum of three families represented on the board and a minimum of two families with children enroled in the school, also distinguishes an independent school from a home-schooling situation.

Each independent school must operate a full-time education program in which the days and hours of operation accord with sections 164 to 168 of *The Education Act*.[8]

Each registered independent school must have goals that are not inconsistent with the *Goals of Education for Saskatchewan*, while each accredited independent school[9] must subscribe to the *Goals of Education for Saskatchewan*. Subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society,[10] these requirements are not intended to diminish or to infringe upon the religious conscience of any independent school. Like public boards of education, each independent school retains the freedom to add to these goals and to define responsibility for their achievement among the school, the home, the church, and the community. A common set of educational goals are needed to provide a common sense of direction for our society while affording sufficient latitude to accommodate the aspirations of all parents for their children.

Each registered independent school must provide instruction in the required areas of study -- language arts, mathematics, science, social studies, health education, arts education, and physical education -- appropriate for the age and ability of its pupils, comparable in quality to that of the public schools, and consistent with generally accepted teaching principles with respect to academic content and teaching pedagogy. Each accredited independent school *per se* or historical high school must conform to provincial curriculum policy in respect of the required areas of study, the common essential learnings, locally-determined options, adaptive dimension, and time and credit allocations. Each alternative independent school must conform to provincial curriculum policy in respect of alternative education.

Thus these recommendations define a registered independent school in the generic sense, which therefore excludes schools that offer solely religious instruction, solely language instruction, solely a program of social or cultural activities, or solely a program of recreational or athletic activities.

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[8] The recommended requirements with respect to the days and hours of operation, to the goals of education, and to curriculum do not represent a change for the historical high schools.

[9] Unless otherwise stated, the term "accredited schools" refers to all three classifications of accredited schools combined: the accredited schools *per se*, the historical high schools, and the alternative schools.

[10] The phrase "subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society" comes from *The Charter of Rights and Freedoms*, 1982, section 1.

That a school must provide instruction in these required areas of study is not a question of conscience so long as the school has the freedom to choose which courses or programs to teach in these required areas. Then various other recommendations provide mechanisms for registered schools to become accredited over time without sacrificing their conscience. In conforming to provincial curriculum policy, the accredited schools *per se* and the historical high schools must teach courses and programs that have been approved by the Department, either:

- provincially developed courses and programs;
- locally developed courses, designated 10L, 20L, and 30L;
- regular courses, designated 10I, 20I, and 30I, developed by independent schools themselves and submitted to the Department for approval; or
- programs at the elementary and middle levels approved by the Department's supervisory official for independent schools.

The Board recommends that the Department of Education be responsible for the inspection of registered schools and the supervision of accredited schools, at the expense of the Department. However, instead of being supervised by the Department, an accredited school may, with the approval of the Department, make arrangements for supervision by a local director or superintendent of education, or a person similarly qualified.

The Board's understanding of inspection is broader than the historical concept of school inspection in Saskatchewan's public schools as checking off minimum criteria on a checklist, which no longer reflects in an operational way the work of directors and superintendents of education in Saskatchewan. It includes observing any aspect of the educational program in an independent school in order to protect the interests of society at large with respect to the education of children in the independent school, as well as non-directive and unobtrusive supervision.

Supervision is an ongoing process aimed at the improvement of instruction in a school that includes both evaluating and enhancing the performance of teachers, leading to teacher growth, improved instruction, and improved learner outcomes. In the context of independent schools, neither inspection nor supervision will involve responsibility for the recruitment and dismissal of teachers, or the selection of programs. Both inspection and supervision will also appreciate and recognize the distinct philosophical orientation of each independent school, and will not attempt to make an independent school a mere replica of a public school.

The Board recommends that teachers in religiously-based registered independent schools must hold a valid Saskatchewan teacher's certificate or a Letter of Eligibility to Teach, while teachers in all other registered and accredited schools must hold a valid Saskatchewan's teacher's certificate. This includes a proposed Probationary "B" Teaching Certificate, similar to the existing probationary certificate, specifically designed for the needs of independent schools.

That a religiously-based registered school may exercise an exemption from the state's normal certification requirements and may apply to the Minister for a Letter of Eligibility to Teach on behalf of a teacher represents a unique recommendation in the Canadian context. On the one hand, the public education representatives insisted that the state institute a pro-active, as opposed to a re-active mechanism to deny a teacher access to or to remove a teacher from an independent school classroom who was ineligible to teach by virtue of, say, a criminal sexual offence or a criminal offence involving a child. On the other hand, while independent school representatives

did not see a requirement to demonstrate to the state that a person was *eligible* to teach in a religiously-based registered independent school would be a violation of the separation of church and state, they did believe strongly that a requirement to demonstrate that a person was *qualified* would be such a violation. The Supreme Court of Canada, itself, in *Caldwell et al.* v. *Stuart et al.*,[11] had made this same distinction between eligibility and qualifications to teach, in the case of a Roman Catholic independent school in British Columbia.

Furthermore, as the Supreme Court of Canada had said in the *Jones* case, having to request an exemption from the state's normal certification requirements and to apply, say, for a Letter of Eligibility to Teach was, in and of itself, not a violation of religious conscience. It was sufficient to protect an independent school against the disregard of its fundamental freedoms or against procedural unfairness at the point of application. The Board also noted that legislative provision for exemptions, based on religious conscience, from the operation of otherwise valid laws was not uncommon. For example, *The Military Service Act*, 1917, and the Saskatchewan *Trade Unions Act* provided exemptions from military service and trade union membership, respectively, both on grounds of religious conscience.

According to *The Saskatchewan Human Rights Code*, religiously-based independent schools, as well as some other types of schools, may restrict access to members of their own group. Alternative independent schools are also distinguished from other independent schools by access. Their students must generally be placed by school boards, Saskatchewan Social Services, Saskatchewan Justice, or the federal Department of Indian Affairs, with the concurrence of the Special Education Branch of Saskatchewan Education.

Independent school facilities must meet construction, health, and safety standards as established by national, provincial, and local authorities. Upon application for registration, each independent school must provide certification that its facility meets these standards.

Parents must be able to make choices for their children based on information as complete as possible. Therefore, the operator of each registered independent school must notify parents that the school is not accredited by Saskatchewan Education, and of the reasons why the school is not accredited by Saskatchewan Education, while the operator of an accredited independent school may advertise that its school is accredited by Saskatchewan Education.

The Minister of Education has established structures like the Board of Teacher Education and Certification (BTEC) and the K-12 Education Program Policies Advisory Committee (EPPAC) in order to maintain standards within the public education system. If accredited independent schools are now going to be required to fit into the scope of regular teacher certification and curriculum requirements for the public education system, and if registered schools are going to be encouraged to become accredited over time, then the Minister should consider representation from independent schools on these two committees within the present structure and composition of these committees.[12]

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[11] (1984) 2 Supreme Court Reports 603.

[12] That is, the Minister would appoint representation from independent schools from among the Minister's own component on these two committees.

In addition, the Board recommends that the Minister establish, for at least a three-year period, an Independent Schools Review Board in order to review, as called upon, any disputes arising from the administration of independent school policies. The Independent Schools Review Board would have the power to make recommendations to the Minister with respect to administrative policies, procedures, or decisions that are referred to it. After three years, the Minister may extend the life of the Review Board.

The Independent Schools Review Board will also monitor on a regular basis the issuance of Probationary "B" Teaching Certificates and Letters of Eligibility to Teach. The Minster of Education will remove Letters of Eligibility to Teach and/or school registrations where criteria are not being met, subject to the principles of fundamental justice.

Finally, the Board makes a number of recommendations to other organizations represented on the Advisory Board. Primarily, these recommendations are designed to promote a harmonious relationship between independent schools and other partners in Saskatchewan education, to encourage independent schools to become an integral part of the Saskatchewan education scene, and to encourage all independent schools to become accredited over time.

Conclusion

Clearly, the Minister has established the Advisory Board at a very unique time in Saskatchewan history, not only because of *The Charter of Rights and Freedoms*, 1982, but also because the Department of Education is in the midst of implementing a major curriculum reform, namely Core Curriculum, in the province's public and separate schools, and because the Department is in the process of establishing a fransaskois component to the Saskatchewan school system. Also, professional educators -- in public, separate, and independent schools -- are facing new demands in delivering services to special needs students whose education is "at risk", but who do not fit into traditional categories of disabled students.

Throughout the course of its work, the Minister's Advisory Board made no attempt to priorize the interests of the children enroled in independent schools, their parents, and the public at large; rather, the Board attempted to balance the interests of these three groups. The proposed relationship between the Department of Education and independent schools recognizes freedom of conscience and religion in education as well as fundamental justice. In accordance with the *Jones* decision, independent schools and parents who enrol their children in independent schools must apply for exemptions, at appropriate points, from the regular scheme of education in the province. The Department will consider these applications recognizing freedom of conscience and religion in education, the rights of children, the rights of parents, the compelling interest of the state in education, and fundamental justice for all.

Insofar as the Board is aware, the Minister's Advisory Board on Independent Schools has examined the issues surrounding independent schools in a more comprehensive way, involving all the major partners in the educational system, than any other province. Within its mandate, the Board has addressed all questions raised both by the Minister and by the organizations represented on the Board. Accordingly, if the Minister implements these recommendations, then Saskatchewan will have the most comprehensive legal framework governing the operation of independent schools of any province, with the possible exception of Quebec.

Table 1

Minister's Advisory Board on Independent Schools: Membership

Representatives from the public education system

1&2. Saskatchewan School Trustees Association

Ann Stewardson, Chairperson, Swift Current R.C.S.S.D. No. 11

William A. Wells, Employee Relations Consultant

3&4. Saskatchewan Teachers' Federation

Fred Herron, General Secretary

Derwyn Crozier-Smith, Executive Assistant

5. League of Educational Administrators, Directors, and Superintendents

Peter Popowich, Director of Education, Outlook School Division

6. University of Saskatchewan, College of Education

Dennis Dibski, Professor of Educational Administration

7. University of Regina, Faculty of Education

E. L. (Bud) Hurlbert, Professor of Educational Administration

Representatives from the independent schools

8&9. Saskatchewan Association of Private High Schools

Donald A. King, President, and Principal, Luther College

Sr. Rosetta Reiniger, Executive Director, St. Angela's Academy

10&11. Saskatchewan Association of Independent Church Schools

Marge Bailey, President, and Principal, Kindersley Christian Academy

Dave Wells, Executive Member, and Principal, Maranatha Christian Academy

12. Seventh-day Adventist Schools

Myron Wareham, Director of Education, Manitoba-Saskatchewan Conference of the Seventh-day Adventist Church

13. Church of God in Christ (Mennonite) Schools

Fred Reimer, Chairperson, Pasquia Hills Christian School, Carrot River

14. Society Schools

Sharon Foreman, Heritage Christian School, North Battleford

Representatives from the post-secondary/employment sector

15. University of Saskatchewan

Ken Smith, Registrar

16. University of Regina

Donna Schwandt, Assistant Registrar

17. Saskatchewan Institute of Applied Science and Technology

Bob Welte, Registrar, Wascana Campus

18. Saskatchewan Employers

Gary Bevan, President, Northland Stationers

19. Apprenticeship and Training

Wendell Dent, Member, Provincial Apprenticeship Board

Others

20. Chairperson

Alec Postnikoff, former Director of Education

21&22. Saskatchewan Education

Fred Renihan, Assistant Deputy Minister, Curriculum and Evaluation

Chris Gerrard, Director, Independent Schools Branch

23. Legal Advisor and Vice-Chairperson

Howard McConnell, Professor of Law, University of Saskatchewan

Table 2

Recommended Classification of Independent Schools

Criteria	Registered Schools	Accredited Schools	Historical High Schools[13]	Alternative Schools[14]
Eligibility	Must be owned or operated by a body corporate, incorporated in the province of Saskatchewan. [(D.2.1)]			
	Must have a board analogous to a public board of education, which exercises powers similar to a board of education. [(D.2.2)]			
	Board must comprise a minimum of three adults, representing three different family units, appropriately selected by the organization that owns or operates the independent school. [(D.2.3)]			
	Must have enroled pupils between the ages of 5 and 21 from a minimum of two different family units. [(D.2.4)]			
		Must have operated successfully for at least one full year. [(D.2.5)]	In operation for not less than five years; not less than 60 pupils enroled in Grades 9 to 12 during each of preceding two years. [Ed. Reg. 71(2)(b)]	
Days and hours of operation	Must operate a full-time educational program in which the days and hours of operation accord with sections 164 to 168 of The Education Act. [(B.1.1), (B.1.2), (B.1.3), and Ed. Regulations 71(2)(c)]			
Goals of education	Not inconsistent with the Goals of Education for Saskatchewan. [(B.2.1)]	Must subscribe to the Goals of Education for Saskatchewan. [(B.2.2)]		
	Subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society, recommendations (B.2.1) and (B.2.2) are not intended to diminish or to infringe upon the religious conscience of any independent school. Each independent school has the freedom to add to these goals and to define responsibility for their achievement among the school, the home, the church, and the community. [(B.2.3) and (B.2.4)]			
Curriculum	Must provide instruction in the seven required areas of study, appropriate for the age and ability of the students, and comparable in quality to that of the public schools. [(B.3.1)]	Must conform to provincial curriculum policy in respect of the required areas of study, common essential learnings, locally-determined options, adaptive dimension, and time and credit allocations. [(B.3.2)]		Must conform to provincial curriculum policy in respect of alternative education. [(B.3.3)]
		Courses and programs of study must be approved by the Department of Education. [Education Regulations 29(b)(i) and 71(2)(c)]		
	May submit courses to the Department for approval as locally developed courses, designated 10L, 20L, and 30L. Such courses must be taught by certified teachers for students to receive secondary level credit. [(B.3.4)]			
	May submit courses to the Department for approval as regular courses originating from independent schools, designated 10I, 20I, and 30I. Such courses must be taught by certified teachers for students to receive secondary level credit. [(B.3.5)]			
	May submit programs at the elementary and middle levels for approval to the Department's supervisory official. [(B.3.6)]			
Religious instruction	Subsection 181(1) of the Education Act shall apply to independent schools in respect of non-credit religious instruction in the religious doctrine or creed of the organization that owns or operates the independent school. [(B.5)]			

[13] Athol Murray College of Notre Dame, Caronport High School, College Mathieu, Luther College, Lutheran Collegiate Bible Institute, Rivier Academy, Rosthern Junior College, and St. Angela's Academy.

[14] Cornwall Alternative School, Radius Tutoring, and Ranch Ehrlo.

Criteria	Registered Schools	Accredited Schools	Historical High Schools	Alternative Schools
Inspection/ supervision[15]	Department of Education responsible for inspection. [(B.6.1) and (B.6.2)]	Department of Education responsible for supervision. With the approval of the Department, schools may arrange for supervision by a local director or superintendent, or a person similarly qualified. [(B.6.1), (B.6.3), (B.6.4), and Ed. Regulations 29(a) and 71(2)(c)]		
Evaluation of students	Pupils may write Grade 12 departmental examinations.	Pupils eligible to receive secondary level credits. [Education Regulations 29]		
Qualifications of teachers	Teachers must hold a valid Sask. teacher's certificate or Letter of Eligibility.[16] [(A.1.1), (A.3.1), and (A.3.2)]	Teachers must hold a valid Saskatchewan teacher's certificate. This refers to all existing certificates, including provisional and probationary certificates, as well as the proposed Probationary "B" Teaching Certificate. [(A.1.1), (A.2.1), (A.2.2), (A.2.3), and (A.2.4)]		
	May restrict the employment of teachers to individuals sharing the faith and practice of the the organization that owns or operates the independent school. [(A.1.2)]			
Access	May follow a restrictive policy with respect to enrolment on the basis of sex, creed, religion, or physical disability, where the school enrols persons of a particular sex, creed, or religion exclusively, or is conducted by a religious order or society, or where it enrols persons who are physically disabled. [(D.5.1)]			Students placed by school boards, Sask. Social Services, Sask. Justice, or Indian Affairs with the concurrence of Sask. Education, Special Education Branch. [(D.5.2)]
School facilities	Must meet construction, health, and safety standards as established by national, provincial, and local authorities. Upon registration, must provide certification that school facilities meet these standards. [(C.1.1) and (C.1.2)]			
Furnishing information	Subject to regulations, must furnish information to the Department in any form the Minister may require with respect to the pupils, teachers, curriculum, facilities and equipment of the school. [Education Act, subsection 361(1)]			
			Must furnish the Minister with any information the Minister may require with respect to finances, structure, and administration. [Ed. Regulations 71(2)(d)]	
			In the case of capital grants, must submit preliminary drawings and cost estimates of proposed projects to the Minister. [Ed. Reg. 71(2)(e)]	
Advertising	Must notify parents that school is not accredited by Sask. Education. [(D.2.6)]	May advertise that school is accredited by Saskatchewan Education. [(D.2.7)]		
Provincial funding	No. [Minister's news release, 27 June 1988]		Yes. [Ed. Regulations 71 and 72]	Yes. [Ed. Regulations 61(b) and (o)]

[15] Inspection involves checking compliance with criteria for registered schools on an ongoing and collaborative basis, and observing any aspect of the educational program in an independent school in order to protect the interests of society at large with respect to the education of the children in the school. Neither inspection nor supervision involves responsibility for the recruitment and dismissal of teachers, or the selection of programs in an independent school. Both inspection and supervision will appreciate and recognize the distinct philosophical orientation of each independent school.

[16] Only a religiously-based registered independent school may apply for a Letter of Eligibility To Teach on behalf of a teacher.

Summary of Recommendations

To the Minister of Education

Foundational Recommendation

That the Minister of Education establish four categories of independent schools in Saskatchewan called registered independent schools, accredited independent schools, historical high schools, and alternative independent schools.

Requirements and Duties of Independent Schools

(A.1.1)[17] That teachers in religiously-based registered independent schools must hold either a valid Saskatchewan teacher's certificate or a Letter of Eligibility to Teach, while teachers in all other registered and accredited independent schools[18] must hold a valid Saskatchewan teacher's certificate.

(A.1.2) Subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society, that recommendation (A.1.1) is not intended to diminish or to infringe upon:
(a) the religious conscience of any independent school; or
(b) the right of any independent school to hire only teachers who share the faith and practice of the organization that owns or operates the independent school.

(B.1.1) That each independent school must operate a full-time program.

(B.1.2) That each independent school must operate an educational program in which the days and hours of operation accord with sections 164 to 168 of *The Education Act*.

(B.1.3) That in respect of sections 164 to 168 of *The Education Act*, each independent school board be granted the same powers as public boards of education.

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[17] Recommendation (A.1.1) refers to the first recommendation arising from the first question in the mandate of committee "A", which is the teacher education, certification, and standards committee; recommendation (A.1.2), to the second recommendation arising from the first question, etc. Committee "B" is the curriculum, instruction, and evaluation committee; committee "C" the student/teacher needs committee; and committee "D", the other issues that were considered directly by the Board. Questions labelled "A", "B", "C", and "D" are addressed in Chapters V, VI, VII, and VIII, respectively.

[18] Unless otherwise stated, the term "accredited schools" refers to all three classifications of accredited schools combined: the accredited schools *per se*, the historical high schools, and the alternative schools.

(B.2.1) That each registered independent school must have goals that are not inconsistent with the *Goals of Education for Saskatchewan.*

(B.2.2) That each accredited independent school must subscribe to the *Goals of Education for Saskatchewan.*

(B.2.3) Subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society, that recommendations (B.2.1) and (B.2.2) are not intended to diminish or to infringe upon the religious conscience of any independent school.

(B.2.4) That each independent school has the freedom to add to these goals and to define responsibility for their achievement among the school, the home, the church, and the community.

(B.3.1) That each registered independent school must provide instruction in the required areas of study -- language arts, mathematics, science, social studies, health education, arts education, and physical education -- appropriate for the age and ability of its pupils, comparable in quality to that of the public schools, and consistent with generally accepted teaching principles with respect to academic content and teaching pedagogy.

(B.3.2) That each accredited independent school *per se* or historical high school must conform to provincial curriculum policy in respect of

- required areas of study
- common essential learnings
- locally-determined options
- adaptive dimension
- time and credit allocations

as outlined in *Core Curriculum Plans for Implementation* (Saskatchewan Education, December 1987).

(B.3.3) That each alternative independent school must conform to provincial curriculum policy in respect of alternative education.

(B.3.7) That section 180 of *The Education Act* apply to independent schools in respect of the language of instruction in each independent school.

(B.5) That subsection 181(1) of *The Education Act* apply to independent schools in respect of non-credit religious instruction in the religious doctrine or creed of the organization that owns or operates each independent school.

(C.1.1) That each independent school facility must meet construction, health, and safety standards as required by national, provincial, and local authorities.

(C.1.2) That, upon application for registration of its school, each independent school must provide certification that its facility meets the above construction, health, and safety standards.

(D.2.1) That each independent school must be owned or operated by a body corporate, incorporated in the province of Saskatchewan.

(D.2.2) That each independent school must have a board analogous to a public board of education, which exercises powers similar to a public board of education.

(D.2.3) That each independent school board must comprise a minimum of three adults, representing three different family units, appropriately selected by the organization that owns or operates the independent school.

(D.2.4) That each independent school must have enroled pupils between the ages of 5 and 21 from a minimum of two different family units.

(D.2.5) That a registered independent school must have operated successfully for at least one full year before it may become an accredited school *per se*.

(D.2.6) That the operator of each registered independent school must notify the parents of the pupils in the school that the school is not accredited by Saskatchewan Education, and of the reasons why the school is not accredited by Saskatchewan Education.

(D.3.1) That each independent school must maintain confidential pupil records of a form and in a manner consistent with Saskatchewan's public schools.

(D.3.2) That each parent or guardian of a child of compulsory school age who enrols that child in an independent school be responsible for providing notification of the enrolment, in writing, to the principal of the public school in which that child was enroled, or to the director of the school division in which that child resides.

(D.3.3) That an independent school board that decides to close its school must give 30 days notice, in writing, of its intention to close its school to:
(a) the Minister of Education;
(b) the director of education of the school division in which the independent school is situated; and
(c) the parent or guardian of each pupil enroled in its school.

(D.5.2) That students in alternative independent schools must generally be placed by school boards, Saskatchewan Social Services, Saskatchewan Justice, or the Department of Indian Affairs, with the concurrence of the Special Education Branch of Saskatchewan Education.

Opportunities and Powers of Independent Schools

(A.2.4) That an independent school board may apply to the Department's certificate issuing official for a Probationary "B" Teaching Certificate on behalf of a teacher.

(A.3.2) Subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society, that only a religiously-based registered independent school board may exercise an exemption from the state's normal

certification requirements and may apply to the Minister for a Letter of Eligibility to Teach on behalf of a teacher.

(B.3.4) That an independent school board, like public boards of education, may submit courses to the Department for approval as locally developed courses, designated 10L, 20L, and 30L. Such courses must be taught by certified teachers for students to receive secondary level credit.

(B.3.5) That an independent school board may submit courses to the Department for approval as regular courses originating from independent schools, designated 10I, 20I, and 30I. Such courses shall

- be academically equivalent to provincial courses designated 10, 20, 30;
- follow the same process of approval as for locally developed courses;
- reflect the religious or philosophical base of the independent school; and
- be taught by a certified teacher for students to receive secondary level credit.

(B.3.6) That an independent school board may submit programs at the elementary and middle levels for approval to the Department's supervisory official for independent schools.

(C.2) That public and independent school boards may negotiate arrangements, including fee-for-service arrangements, for the provision of services such as bus transportation and driver education to pupils in independent schools.

(D.2.7) That the operator of each accredited independent school may advertise that its school is accredited by Saskatchewan Education.

(D.5.1) That any independent school may follow a restrictive policy with respect to enrolment on the basis of sex, creed, religion, or physical disability, where the school enrols persons of a particular sex, creed, or religion exclusively, or is conducted by a religious order or society, or where it enrols persons who are physically disabled.

Responsibilities of the Department of Education

(A.2.1) That a year of successful teaching experience in an independent school, appropriately supported by a supervisory official, be acceptable for upgrading a provisional teacher's certificate to a permanent certificate.

(A.2.2) That a year of successful teaching experience in an independent school, appropriately supported by a supervisory official, be an acceptable substitute for a practicum.

(A.2.3) That a Probationary "B" Teaching Certificate be created consistent with the policy statement in Table 5.4.

(A.3.1) That a Letter of Eligibility to Teach in a Religiously-Based Registered Independent School be created consistent with the policy statement in Table 5.5.

(B.4) That the Department develop and maintain a recommended materials list for independent schools.

(B.6.1) That the Department be responsible, at the expense of the Department, for the inspection of registered independent schools and for the supervision of accredited independent schools.

(B.6.2) Subject to freedom of conscience and religion in education, and to the separate authorities of the church and the state, that "inspection":

(a) involves checking compliance with the criteria for registered independent schools on an ongoing and collaborative basis;
(b) involves observing any aspect of the educational program in an independent school in order to protect the interests of society at large with respect to the education of the children in the school;
(c) may involve non-directive and unobtrusive supervision;
(d) does not involve responsibility for the recruitment and dismissal of teachers, or the selection of programs in an independent school; and
(e) will appreciate and recognize the distinct philosophical orientation of each independent school.

(B.6.3) That, in addition to inspection, "supervision" is an ongoing process aimed at the improvement of instruction in a school, but:

(a) does not involve responsibility for the recruitment and dismissal of teachers, or the selection of programs in an independent school; and
(b) will appreciate and recognize the distinct philosophical orientation of each independent school.

(B.6.4) That, instead of being supervised by the Department, an accredited independent school may, with the approval of the Department, make arrangements for supervision by a local director or superintendent of education, or a person similarly qualified.

(B.6.5) That individuals providing inspectorial or supervisory services meet the qualifications of the Department of Education in respect of directors of education as outlined in *The Education Regulations*, section 5.

(B.7.1) That the Department consider extending accreditation to teachers in non-funded independent schools.

(B.7.4) That the Saskatchewan Correspondence School consider delivering 10I, 20I, and 30I courses as appropriate.

(B.8.1) That the Department's supervisory official for independent schools have the authority to exempt a student of compulsory school age, attending a registered or an accredited independent school, in accordance with clauses 156(b), (f), and (g) of *The Education Act*.

(B.8.2) That the Department's supervisory official for independent schools be responsible for ensuring that the attendance provisions of *The Education Act* are being met with respect to students enroled in independent schools.

(B.9.1) That the Department keep individual independent schools abreast of curriculum development in the province.

(B.9.2) That independent schools who choose to implement a new provincial curriculum during its implementation phase be invited to and have access to departmental in-service associated with the new curriculum.

(C.4) That, consistent with the policy framework laid down by the Minister for the Advisory Board, the Department of Education provide diagnostic and assessment services for special needs students in independent schools.

(C.6) That independent schools have access to common teacher resources, on a fee-for-service basis where appropriate; curriculum guides should be provided at no cost.

(D.3.4) That the Minister remove Letters of Eligibility to Teach and/or school registrations where criteria are not being met, subject to the principles of fundamental justice.

The Collaborative Process

(A.2.5) That the Minister consider representation from independent schools on the Board of Teacher Education and Certification (BTEC), within the present structure and composition of BTEC.

(B.3.8) That the Minister consider representation from independent schools on the K-12 Education Program Policies Advisory Committee (EPPAC), within the present structure and composition of EPPAC.

(D.4.1) That a scaled-down version of the present Advisory Board, named the Independent Schools Review Board, continue to exist for at least three years during the implementation of the present Board's recommendations, in order to review, as called upon, any disputes arising from the administration of independent school policies.

(D.4.2) That all groups represented on the present Advisory Board also be represented on the Independent Schools Review Board.

(D.4.3) That the Independent Schools Review Board have the power to make recommendations to the Minister of Education with respect to administrative policies, procedures, or decisions that are referred to it.

(D.4.4) That the Independent Schools Review Board monitor on a regular basis the issuance of Probationary "B" Teaching Certificates and Letters of Eligibility to Teach.

(D.4.5) That, after three years, the Minister may extend the life of the Independent Schools Review Board.

To the Saskatchewan School Trustees Association

(C.2) That public and independent school boards may negotiate arrangements, including fee-for-service arrangements, for the provision of services such as bus transportation and driver education to pupils in independent schools.

To the Saskatchewan Teachers' Federation

(C.5) That teachers in independent schools be invited to participate in activities that facilitate professional contact between teachers in public and independent schools.

To the League of Educational Administrators, Directors, and Superintendents

(C.5) That teachers in independent schools be invited to participate in activities that facilitate professional contact between teachers in public and independent schools.

To the University of Saskatchewan, College of Education, and the University of Regina, Faculty of Education

(A.4.1) That the Colleges of Education consider allowing students to complete their field experience in accredited independent schools.

(A.4.2) That the Colleges of Education consider incorporating the study of independent schools into the Colleges' programs of studies in order to portray the role of these schools in the overall education system.

To the University of Saskatchewan and the University of Regina

(B.7.2) That the province's post-secondary institutions consider acceptance of courses taught in independent schools, designated 10I, 20I, and 30I, as equivalent to regular 10, 20, and 30 courses, both for admissions credit and as level 30 pre-requisites.

(B.7.3) That the Universities of Saskatchewan and Regina consider acceptance of adult students for admission on the basis of Grade 12 standing. (An adult is a person "who is at least 18 years of age and who has been out of [public] school for at least one year.")

To the Saskatchewan Institute of Applied Science and Technology

(B.7.2) That the province's post-secondary institutions consider acceptance of courses taught in independent schools, designated 10I, 20I, and 30I, as equivalent to regular 10, 20, and 30 courses, both for admissions credit and as level 30 pre-requisites.